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महापत्तन प्रशुल्क प्राधिकरण

अधिसूचना

नई दिल्ली, 27 दिसम्बर, 2001

**सं. टीएएमपी/78/2001-एनएमपीटी.**—महापत्तन न्यास अधिनियम, 1963 (1963 का 38) की धारा 48 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महापत्तन प्रशुल्क प्राधिकरण एतद्वारा, संलग्न आदेशानुसार न्यू मंगलौर पत्तन न्यास से उसकी ऑयल जेट्टी सं. 10 में प्रहस्तन किए जाने वाले कार्गो पर वर्ष 2001-2002 के लिए तदर्थ घाटशुल्क दर निर्धारित करने के वास्ते प्राप्त प्रस्ताव का निपटान करता है।

अनुसूची

मामला सं० टीएएमपी/78/2001-एनएमपीटी

न्यू मंगलौर पत्तन न्यास (एनएमपीटी)

.....

आवेदक

आदेश

(दिसम्बर, 2001 के 13वें दिन पारित किया गया)

इस प्राधिकरण ने वर्ष 1996-97 के लिए जेट्टी सं० 10 की घाटशुल्क दर के निर्धारण के लिए न्यू मंगलौर पत्तन न्यास (एनएमपीटी) द्वारा प्रस्तुत प्रस्ताव पर 27 अक्टूबर, 1998 को एक आदेश पारित किया था। इस प्राधिकरण ने कुछ विवादास्पद मुद्दों पर निर्णय किया था और एनएमपीटी तथा मंगलौर रिफायनरी एंड पेट्रोकेमिकल लिमिटेड (एमआरपीएल), दोनों को आदेश में उल्लिखित रूपरेखा के अनुसार संयुक्त रूप से पुनः परिकलन करने का परामर्श दिया था।

1.2 तत्पश्चात्, एनएमपीटी ने एक संशोधित प्रस्ताव प्रस्तुत किया था, जिसमें यह उल्लेख किया गया था कि घाटशुल्क के निर्धारण के लिए परस्पर स्वीकार्य आधार तैयार करने में एनएमपीटी और एमआरपीएल, दोनों ही असमर्थ रहे थे। इसमें एनएमपीटी और एमआरपीएल के परिकलन के विवरण के साथ-साथ इस प्राधिकरण

के विचारार्थ मतभेद के मुद्दों का भी उल्लेख किया गया था । इस पृष्ठभूमि में, इस प्राधिकरण ने एनएमपीटी से प्राप्त संशोधित प्रस्ताव पर विचार किया और स्थायी एमआरपीएल जेट्टी पर प्रहस्तन किए जाने वाले कार्गो पर घाटशुल्क प्रभारों के परिकलन के लिए अपनाए जाने वाले दिशानिर्देशों का उल्लेख करते हुए 19 जुलाई, 2000 को एक आदेश पारित किया था । उक्त आदेश में एनएमपीटी को इस प्राधिकरण द्वारा उल्लिखित दिशानिर्देशों के अनुसार वर्ष 1996-97, 1997-98, 1998-99 और 1999-2000 के लिए घाटशुल्क प्रभारों का परिकलन करने का निर्देश दिया गया था । यह भी परामर्श दिया गया था कि घाटशुल्क प्रभारों का निर्धारण करने संबंधी प्रस्ताव इस प्राधिकरण को अग्रेषित करने से पहले आंकड़े एमआरपीएल द्वारा सत्यापित किए जाएं ।

2.1 एमआरपीएल ने इस प्राधिकरण के आदेश के विरुद्ध कर्नाटक उच्च न्यायालय में एक रिट याचिका दाखिल की है ।

2.2 एनएमपीटी ने संदर्भगत हमारे आदेश में उल्लिखित तीन सिद्धांतों की समीक्षा करने का अनुरोध करते हुए इस प्राधिकरण के पास तीन याचिकाएं दाखिल की हैं ।

3.1 एमआरपीएल द्वारा दाखिल रिट याचिका केवल 1996-2000 की अवधि के संबंध में थी । एनएमपीटी द्वारा प्रस्तुत वर्तमान प्रस्ताव में 2000-2001 की अवधि शामिल है, इसलिए इस पर लंबित मुकदमे से कोई प्रभाव नहीं पड़ेगा । फिर भी, कर्नाटक उच्च न्यायालय ने एनएमपीटी को अनुवर्ती अवधि के लिए समझौता ज्ञापन (एमओयू) के अनुसार घाटशुल्क प्रभारों का निर्धारण करने के लिए कार्रवाई आरंभ करने के वास्ते स्वतंत्रता प्रदान की है । चूंकि, एनएमपीटी के दरों के मान में अधिसूचित पीओएल के लिए घाटशुल्क दर से समझौता ज्ञापन में परिकलित लाभ के एमआरपीएल को मिलने की संभावना नहीं है, इसलिए वर्ष 2001-2002 के लिए तदर्थ घाटशुल्क दर को अधिसूचित करना आवश्यक हो जाता है । इस मामले में, 9 नवम्बर, 2001 को मुंबई में आयोजित संयुक्त सुनवाई में उपलब्ध विभिन्न विकल्पों पर विचार-विमर्श किया गया था ।

3.2 यद्यपि, आरंभ में विशेषकर विभिन्न लागत घटकों और यातायात पूर्वानुमान की तर्कसंगतता और स्वीकार्यता के बारे में काफी तर्क हुए थे, लेकिन एनएमपीटी और एमआरपीएल, दोनों ही 9 नवम्बर, 2001 को आयोजित संयुक्त सुनवाई में वर्ष 2001-2002 के लिए लगाए जाने वाले तदर्थ प्रभारों के संबंध में सहमत हो गए हैं । दोनों पक्ष वर्ष 2001-2002 के लिए 71/-रुपए प्रति एमटी की तदर्थ दर पर सहमत हो गए हैं । चूंकि, परस्पर सहमत एक दर तैयार हो गई है और इस तथ्य को मानते हुए ऐसी दर अंतिम दर का निर्धारण करने के शर्ताधीन केवल एक अंतरिम दर ही होगी, क्योंकि लागत निर्धारण सिद्धांतों और आंकड़ों पर दोनों पक्षों द्वारा आरंभ में उठाई आपत्तियों का गहराई से विश्लेषण करना तथा पहले निर्धारित दिशानिर्देशों के साथ उनकी तर्कसंगतता और एकरूपता को सुनिश्चित करने के लिए विभिन्न लागत घटकों की आगे जांच करना आवश्यक नहीं है । इसलिए, यह प्राधिकरण एनएमपीटी और एमआरपीएल के बीच परस्पर सहमत वर्ष 2001-2002 के लिए 71/-रुपए प्रति एमटी की तदर्थ दर का अनुमोदन करने का इच्छुक है ।

3.3 जैसाकि पहले उल्लेख किया जा चुका है कि तीन विशेष मुद्दों पर एनएमपीटी पहले ही समीक्षा याचिकाएं दाखिल कर चुका है, जिन पर अपनाई गई पद्धति के अनुसार अलग से कार्रवाई की जा रही है और यथासमय प्राधिकरण के अंतिम विचारार्थ तैयार हो जाएंगी । एनएमपीटी ने आगे अनुरोध किया है कि उसके और एमआरपीएल के बीच परस्पर सहमत दर को इसकी समीक्षा याचिकाओं के निपटान की प्रतीक्षा किए बिना अविलंब अधिसूचित कर दिया जाए । इसे देखते हुए, पक्षों के बीच परस्पर सहमति के अनुसार वर्ष 2001-2002 के लिए तदर्थ दर अनुमोदित की जाती है, बशर्ते कि वर्ष 2001-2002 के लिए अंतिम दर और वर्ष 2002-2003 के लिए तदर्थ दर अनुमत्य लागतों और निर्धारित दरों के आधार पर विहित की जाएंगी ।

4. परिणामतः और ऊपर दिए गए कारणों तथा समग्र ध्यान दिए जाने के आधार पर यह प्राधिकरण एनएमपीटी में स्थायी एमआरपीएल जेट्टी सं० 10 पर वर्ष 2001-2002 के दौरान प्रहस्तन किए जाने वाले कार्गो पर 71/-रुपए प्रति एमटी की तदर्थ घाटशुल्क दर का अनुमोदन करता है, बशर्ते कि अंतिम घाटशुल्क प्रभार वास्तविक और अनुमत्य लागतों के आधार पर निर्धारित किए जाएं ।

एस. सत्यम, अध्यक्ष

[ विज्ञापन III/IV/143/2001/असा. ]

## TARIFF AUTHORITY FOR MAJOR PORTS

### NOTIFICATION

New Delhi, the 27th December, 2001

**No. TAMP/78/2001-NMPT.**— In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the New Mangalore Port Trust for fixation of ad-hoc wharfage rate for the year 2001-2002 on cargo handled at its oil jetty No. 10 as in the Order appended hereto..

### SCHEDULE

#### Case No. TAMP/78/2001-NMPT

The New Mangalore Port Trust

- - -

Applicant

### ORDER

(Passed on this 13th day of December 2001)

This Authority had passed an Order on 27 October 1998 on the proposal made by the New Mangalore Port Trust (NMPT) for fixation of wharfage rate of Jetty No.10 for the year 1996-97. This Authority decided on some of the contentious issues and advised both the NMPT and the Mangalore Refinery and Petrochemical Limited (MRPL) to jointly rework the calculations along the lines indicated in the Order.

1.2. Subsequently, the NMPT submitted a revised proposal in which it had mentioned that both the NMPT and the MRPL were unable to arrive at a mutually acceptable basis for fixation of wharfage. It had furnished the details of the NMPT's and the MRPL's calculation and points of difference for consideration of this Authority. In this backdrop, this Authority considered the revised proposal received from the NMPT and passed another Order on 19 July 2000 setting out the guidelines to be followed for calculation of wharfage charges on cargo handled at the dedicated MRPL Jetty. In the said Order, the NMPT was directed to compute wharfage charges, for the years 1996-97, 1997-98, 1998-99 and 1999-2000 in line with the guidelines prescribed by this Authority. It was also advised to get the figures verified by the MRPL before forwarding the proposal for fixation of wharfage charges to this Authority.

2.1. The MRPL has filed a writ petition in the High Court of Karnataka against the Order of this Authority.

2.2. The NMPT has filed three petitions with this Authority requesting for review of three principles enunciated in our Order in reference.

3.1. The writ petition filed by the MRPL was only about the period 1996-2000. The current proposal made by the NMPT covers the period 2001-2002 and hence will not be hit by the pending litigation. In any case, the Karnataka High Court order gives the liberty to the NMPT to proceed to take action to fix wharfage charges in accordance with the MOU for the subsequent period. Since the wharfage rate for POL notified in the Scale of Rates of the NMPT may not pass on to the MRPL the benefit envisaged in the MOU, it becomes necessary to notify an ad-hoc wharfage rate for 2001-2002. In a joint hearing on this matter in Mumbai on 9 November 2001, the various options available were discussed.

3.2. Although there were lot of arguments initially, particularly in respect of reasonableness and admissibility of different cost elements and the traffic projection, both the NMPT and the MRPL have come to an agreement insofar as the ad-hoc charges leviable for the year 2001-02 at the joint hearing held on 9 November 2001. Both the parties have agreed to an ad-hoc rate of Rs. 71/- PMT for the year 2001-02. Since a mutually agreed rate has evolved and recognising the fact that such a rate is only going to serve as an interim rate subject to fixation of final rates, it may not be necessary to analyse in depth the various objections raised initially by both the parties on costing principles and figures as well as further scrutiny of various cost elements to ensure the reasonableness and their conformity with the guidelines already set. This Authority is, therefore, inclined to approve the ad-hoc rate of Rs. 71/- PMT for the year 2001-02 as mutually agreed to between the NMPT and the MRPL.

3.3. As has already been mentioned, review petitions filed by the NMPT on three specific issues are being processed separately as per the procedure adopted and will mature for final consideration of this Authority in due course. The NMPT has further requested that the ad-hoc rate as mutually agreed to between it and the MRPL may be notified immediately without waiting for the disposal of its review petitions. That being so, the ad-hoc rate for the year 2001-02 as mutually agreed to between the parties is approved subject to the condition that the final rate for the year 2001-02 as well as ad-hoc rate for the year 2002-03 will be prescribed based on admissible costs and principles set.

4. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves an ad-hoc wharfage rate of Rs. 71/- PMT on cargo handled during the year 2001-02 at the dedicated MRPL Jetty (Jetty No.10) at the NMPT subject to determination of final wharfage charges based on actual and admissible costs.

S. SATHYAM, Chairman  
[ADVT III/IV/143/2001/Ext.]

**TARIFF AUTHORITY FOR MAJOR PORTS  
NOTIFICATION**

New Delhi, the 27th December, 2001

**No. TAMP/62/2001-VPT**— In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Visakhapatnam Port Trust for fixation of hire charges for barges when used as spacers as in the Order appended hereto.

**SCHEDULE**

**Case No. TAMP/62/2001-VPT**

**The Visakhapatnam Port Trust (VPT)**

.....

**Applicant**

**ORDER**

(Passed on this 13th day of December 2001)

This case relates to a proposal received from the Visakhapatnam Port Trust (VPT) for fixation of hire charges for barges when used as fenders/spacers.

2.1. The existing Scale of Rates (SOR) of the VPT does not contain any tariff exclusively for barges when used as spacers.

2.2. In the pre-revised SOR, a hire charge of Rs.380/- for the first 6 hours or part thereof and, Rs.65/- for every additional hour or part thereof was prescribed for use of 150 tonne capacity barges. The VPT has explained that it levies the hire charges prescribed even when the 150 T barges are used as spacers for iron ore vessels. In addition to the 150 T capacity barges, the VPT also has 400 T steel pontoons for which the hire charges were prescribed as Rs. 6,600/- per six hour or part thereof (without staff) and Rs. 8,220/- per six hours or part thereof (with staff).

2.3. The hire charges of barges were revised upward by 15% by this Authority at the time of the general revision of SOR (excluding estate rentals) of the VPT which was notified on 4 June 2001.

2.4. The Trade has reportedly requested the VPT to fix a uniform rate for the barges, when used exclusively as spacers irrespective of their capacity.

2.5. In this backdrop, the VPT has proposed a rate of Rs.1166 for the first 6 hours or part thereof; and, Rs.232 for every additional hour or part thereof uniformly for any barge (upto 400 tonne capacity) when used as spacers/ fenders.

3.1. In accordance with the procedure prescribed, a copy of the proposal was sent to various representative bodies of port users for comments. The Vizagapatnam Chamber of Commerce and Industry and Visakhapatnam Steamship Agents' Association have expressed their agreement with the proposal of the VPT. The Visakhapatnam Port Users Association (VPUA), the Shipping Corporation of India (SCI), and the Indian National Shipowners' Association (INSA) have not sent any comments. The Container Shipping Lines Association (CSLA) has mentioned that it has no comments to offer on the proposal of the VPT.

3.2. A copy each of the comments received from the above users was sent to the VPT as feedback information.

4.1. Based on a preliminary scrutiny, the VPT was requested to furnish additional information/clarification on certain points arising out of its proposal. The main issues raised for clarification were as follows:

- (i). The bases of the proposed hire charges.
- (ii). Applicability of additional towage charges in respect of 400 T steel pontoons.

4.2. The VPT has responded to the queries raised. The following points have been made by the VPT:

- (i). Though the purpose for which the barges and the steel pontoons are used is same i.e. spacers/fenders for the iron ore vessels, there is a difference in their hire charges. Considering the same purpose of use of barges/steel pontoons (upto 400 tonne capacity); and, a request from the trade, a uniform rate for the barges/steel pontoons when used exclusively as spacer/fender has been proposed.
- (ii). The proposed rate has been arrived at by taking the hire charges applicable for barges of 150 tonne capacity as the base, duly working out proportionately the proposed rate for the barges/steel pontoons Lava/Kusa upto 400 tonne capacity when used as spacers/fenders.
- (iii). Note I and VI of Section 5.3.2 of the existing Scale of Rates can remain unaltered; and, a separate note as indicated hereunder may be incorporated for barges/steel pontoons Lava/Kusa (upto 400 tonne capacity), when used as spacers / fenders:

*"The charges prescribed in respect of Barges/Steel Pontoons Lava/Kusa upto 400 tonne capacity when used exclusively as spacers are exclusive of towage charges."*

5. A joint hearing in this case was held on 6 November 2001 at Visakhapatnam. At the joint hearing the following submissions were made:

**Visakhapatnam Port Trust (VPT)**

- (i). Our proposal is based on the detailed discussions with the users; there is no dispute.
- (ii). We do not charge for fenders, only for spacers.

**Visakhapatnam Steamship Agents' Association (VSAA)**

- (i). Providing fender is an operational requirement. It is the responsibility of the port; and, should not be charged.

6. With reference to the totality of information collected during the processing of this case, and based on a collective application of mind, the following position emerges:

- (i). The existing SOR of the VPT does not contain a separate rate for barges when used exclusively as spacers for the iron ore vessels; and, presently the charges for providing this service are levied as per the rates prescribed under the tariff heading 'Barge charges (for other than ships cargo handling purpose)' in the SOR of the VPT. The barge hire charges contain rates for barges upto 150 tonnes and steel pontoons Lava / kusa upto 400 tonnes, which vary widely.
- (ii). The iron ore berth of VPT is designed to handle larger vessels. Owing to Trade-requirement, when smaller ships are berthed, there may be misalignment between the reach of the loading arm and the ship's hold. To readjust the alignment a spacer is placed in position between the berth and the vessel; and, in this context barges are used as spacers. Since the spacer is only to facilitate cargo handling and does not itself handle cargo, its cargo holding capacity is irrelevant to the situation.
- (iii). The VPT provides barges for being used as spacers depending on their availability. If only 400 T barge is available for use as spacer at a particular point of time and its applicable hire charge is levied, then the concerned user is burdened with higher payment to the VPT as a result of differential tariff between the 150 T and 400 T barges. Since the purpose of usage is the same, the VPT has now proposed to have a uniform rate for providing spacers irrespective of the capacity of barges used as spacers. This is exactly what the users have demanded. This is thus another user-friendly proposal made by the VPT in pursuit of its continuing efforts to rationalise its Scale of Rates.

- (iv). The VSAA's objection is, perhaps, misplaced and may have been raised due to a confusion created by the language used in the proposal to indicate that the proposed rates are for barges used as fenders and spacers. There is no doubt that provision of fenders alongside berths / jetties is the responsibility of the Port. The VPT has also categorically clarified this position. This proposal is only to prescribe a rate when barges are used as spacers; and, the need to provide spacers, as has been explained above, arises due to a ship's requirement. That being so, it is not unreasonable to levy a separate charge for providing this facility.
- (v). The VPT has arrived at the proposed uniform rate by reckoning the tariff for 150 tonne capacity barges as a base, duly working out the proportionate charge for barges / steel pontoons (upto 400 tonne capacity) when used as spacers. Although the base rate tallies with the methodology explained by the Port, there is a minor discrepancy in the rate for additional hours of usage beyond 6 hours. The users have endorsed the proposed rate and the proposed rates are inclined more towards benefiting the users since the rate of 150 T barges have been taken as the base. That being so, this Authority has no reservation to approve the rates as proposed by the VPT without any modification.
- (vi). The existing hire charges for a 150 tonne capacity barge include charge for supply of the barge, equipment and towage from any part of the harbour to any other part of the harbour and bringing back the empty barge, whereas the hire charges for steel pontoons of 400 T capacity are exclusive of towage charges. The VPT has, therefore, proposed that a separate note may be prescribed stating that barge charges for use of barges upto 400 T capacity as spacers are exclusive of the towage charges. It is true that the Port has to mobilise the barges to the place of operation and incurs in the process expenditure on towage of barges. It is, therefore, reasonable to levy towage charges, as applicable, separately. That being so, the note in this regard as proposed by the VPT is also approved for inclusion in the Scale of Rates as a conditionality governing application of the relevant rate.

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following hire charges for barges when used as spacers, as proposed by the VPT:-

**Barge charges for use as spacers for Iron ore vessels**

Item No.	Description	Unit	Rate (In Rs.)
1.	Barges / Steel pontoons (upto 400 tonnes capacity).	For the first 6 hours or part thereof.	1166
		For every additional hour or part thereof	232

**Note:**

- (i). *The charges prescribed in respect of Barges/Steel Pontoons Lava/Kusa upto 400 tonne capacity when used exclusively as spacers, are exclusive of towage charges.*

8. The VPT is directed to amend its Scale of Rates accordingly.

9. This Order shall come into effect on expiry of 15 days from the date of its notification in the Gazette of India.

S. SATHYAM, Chairman  
[ADVT III/IV/143/2001/Exty.]

